

### **REMARKS**

#### **A. Regarding the Amendments**

By the present communication claims 1, 3, 25, and 27 have been amended to more particularly define Applicant's invention. As amended, the claims are supported by the specification and the original claims and add no new matter. Therefore, entry of the amendment is respectfully requested. Upon entry of this amendment, claims 1-6, 8-27 and 66 remain under consideration.

#### **B. Regarding the Claim Objections**

The objection to the specification under 37 C.F.R. 1.75 (d)(1) as allegedly failing to provide proper antecedent basis for the claim element "O" in claims 1 and 25 is rendered moot by the amendment to these claims presented herein. Specifically, claims 1 and 25 have been amended so that "O" is no longer recited in the definition of R<sub>1</sub> in these claims.

#### **D. Rejection Under 35 U.S.C. § 102**

The rejections of claims 1, 7, 25, and 27 under 35 U.S.C. 102(b) as allegedly being anticipated by Isono, et. al., (Japanese Patent No. 53056690), claims 1-7 and 25-27 under 35 U.S.C. 102(e) as allegedly being anticipated by von Borstel, et. al. (U.S. Patent No. 6,258,795), claims 1-28 and 66 under 35 U.S.C. 102(a) as allegedly being anticipated by Naviaux, et. al. ("Mitochondrial Dysfunction in Human Pathology", meeting in Melbourne, Australia), and claims 1-28 and 66 under 35 U.S.C. 102(e) as allegedly being anticipated by von Borstel, et. al. (U.S. Patent No. 6,472,378), are respectfully traversed.

Applicant's invention, as defined for example, by claim 1, distinguishes over each of the cited references by requiring a method for the treatment of a disorder comprising administering to a subject having or at risk of having such disorder an effective amount of a well-defined pyrimidine-based nucleoside, wherein the disorder is selected from renal tubular acidosis (RTA); Leigh syndrome; MARIAHS syndrome; mitochondrial

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disease leading to stroke-like episodes; lactic acidemia; Pyruvate Dehydrogenase (PDH) deficiency; encephalomyopathy; ataxia and encephalopathy; cytochrome c oxidase (COX, Complex IV) deficiency; cardiomyopathy; Alzheimer's disease; multiple mitochondrial deletion syndrome, and any combination thereof. None of the cited references describe methods for treating the specific disorders set forth in claim 1. Thus, the references do not recite each and every element of the present claims. Accordingly, reconsideration and withdrawal of the rejection of claims 1-28 and 66 under 35 U.S.C. § 102(a), 102(b), and 102(e) are respectfully requested.

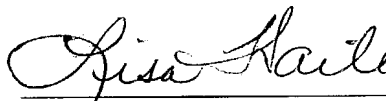
### CONCLUSION

In view of the above amendments and remarks, reconsideration and favorable action on all claims are respectfully requested. If the Examiner would like to discuss any of the issues raised in the Office Action, Applicant's representative can be reached at (858) 677-1456. Please charge additional claim fees, or make any credits, to Deposit Account No. 50-1355.

Respectfully submitted,

Date: \_\_\_\_\_

2/5/04



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